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EXAMINER

ADEGEYE, OLUWASEUN

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/753,251
Filing Date: January 08, 2004
Appellant(s): HANES, DAVID H.

James L. Baudino
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 03/14/2008 appealing from the Office action mailed 01/02/2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6973130	Wee et al	12-2005
2002/0169742	Nakamura et al	11-2002

2004/0136352	Fu et al	07-2004
2001/0026511	Ueda et al	10-2001
2002/0044760	Shirakawa et al	04-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4 – 5, 7 – 11, 14 – 16, 18 – 19, 21 - 23 and 25 – 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wee et al (US 6,973,130 B1) in view of Fu et al (US 2004/0136352 A1).

As to **claim 1**, Wee discloses a method of analyzing a moving pictures expert group (MPEG)-formatted video/audio file, comprising (see column 13, lines 14 – 30):

defining a rule comprising at least one parameter that logically defines a format requirement (column 22, lines 18 – 37 discloses a rule for recognizing Mpeg format)

reading a portion of the file (sequence header) (see column 17, lines 7 – 21, column 22, lines 18 - 24 and column 23, lines 2 – 12);

comparing the portion of the file with the rule (see column 21, line 62 – column 22, line 2 and column 22, lines 18 – 37) ; and

determining whether the file violates the rule (see column 22, lines 18 – 37).

However Wee does not disclose defining a rule comprising at least one parameter that logically defines a format requirement for determining whether the MPEG-formatted file is decodable on a first type of MPEG-capable decoder but not decodable on a second type of MPEG-capable decoder.

Fu discloses defining a rule comprising at least one parameter that logically defines a format requirement for determining whether the MPEG-formatted file (see [37] and [39]) is decodable on a first type of MPEG-capable decoder but not decodable on a second type of MPEG-capable decoder (see [025]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the step of determining whether the MPEG-formatted file is decodable on a first type of MPEG-capable decoder but not decodable on a second type of MPEG-capable decoder as taught by Fu to the apparatus of Wee to provide access for legacy devices to ensure interoperability with legacy and disparate systems (see [005]).

As to **claim 10**, this is an apparatus claim corresponding to the method claim 1. Therefore, claim is analyzed and rejected as previously discussed with respect to claim 1.

As to **claim 25**, grounds for rejecting claim 10 apply to claim 25 in its entirety.

As to **claim 18**, this claim is similar to claim 1 only in that it has the limitation “computer readable medium executed by a processor”.

Wee discloses an encoding software and a computer (133) (see column 11, lines 2 – 6, column 12, lines 1 - 13 and column 17, lines 7 – 21).

As to **claim 4**, Wee discloses the method according to claim 1, wherein defining a rule comprises defining a rule having at least one parameter logically defining a standardized format requirement (column 22, lines 18 – 37 discloses a rule for recognizing Mpeg format).

As to **claim 5**, Wee discloses the method according to claim 1, wherein defining a rule comprises defining a rule having at least one parameter logically defining a MPEG format requirement (column 22, lines 18 – 37 discloses a rule for recognizing Mpeg format).

As to **claim 7**, Wee discloses the method according to claim 1, wherein reading a portion of the file comprises locating a sequence header of the file (see column 17, lines 7 – 21, column 22, lines 18 - 24 and column 23, lines 2 – 12);

As to **claim 8**, Wee discloses the method according to claim 1, wherein comparing the portion of the file comprises determining whether the file comprises a group of pictures (GOP) header (see column 17, lines 7 – 21 and column 23, lines 2 – 12);

As to **claim 9**, Wee discloses the method according to claim 1, further comprising transcoding the file upon determining the file violates the rule (see column 7, lines 12 – 24, column 12, lines 33 – 38 and column 22, lines 46 - 62).

As to **claim 11** this is an apparatus claim corresponding to the method claim 5. Therefore, claim 11 is analyzed and rejected as previously discussed with respect to claim 5.

As to **claim 14**, this is an apparatus claim corresponding to the method claim 8. Therefore, claim 14 is analyzed and rejected as previously discussed with respect to claim 8.

As to **claim 15**, this is an apparatus claim corresponding to the method claim 9. Therefore, claim 15 is analyzed and rejected as previously discussed with respect to claim 9.

As to **claim 16**, this is an apparatus claim corresponding to the method claim 7. Therefore, claim 16 is analyzed and rejected as previously discussed with respect to claim 7.

As to **claim 19**, this is a computer readable medium claim corresponding to the method claim 5. Therefore, claim 19 is analyzed and rejected as previously discussed with respect to claim 5.

As to **claim 21**, this is a computer readable medium claim corresponding to the method claim 8. Therefore, claim 21 is analyzed and rejected as previously discussed with respect to claim 8.

As to **claim 22**, this is a computer readable medium claim corresponding to the method claim 7. Therefore, claim 22 is analyzed and rejected as previously discussed with respect to claim 7.

As to **claim 23**, this is a computer readable medium claim corresponding to the method claim 9. Therefore, claim 23 is analyzed and rejected as previously discussed with respect to claim 9.

As to **claim 26**, grounds for rejecting claim 9 apply to claim 26 in its entirety.

3. Claims 2, 3 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wee in view of Fu as applied to claims 1, 10, 18 and 25 above, and further in view of Shirakawa et al (US 2002/0044760 A1).

As to **claim 2**, Wee in view of Fu discloses the method according to claim 1. However they do not disclose wherein defining a rule further comprises defining a rule that comprises a parameter for addressing the portion of the file.

Shirakawa discloses wherein defining a rule further comprises defining a rule that comprises a parameter for addressing the portion of the file (see [10] [269] and [323]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have added addressing the portion of the file taught by Shirakawa to the method of Wee in view of Fu to facilitate editing such as overwriting and to raise the speed of fast playback (see [48] and [51]).

As to **claim 3**, Wee in view of Fu and further in view of Shirakawa discloses the method according to claim 2. Wee discloses wherein defining a rule that comprises a parameter for addressing the portion further comprises defining a rule that comprises a parameter specifying a bit rate of the file (see column 22, lines 24 – 27).

As to **claim 13**, this is an apparatus claim corresponding to the method claim 3. Therefore, claim 13 is analyzed and rejected as previously discussed with respect to claim 3.

4. Claims 6, 12 and 20 rejected under 35 U.S.C. 103(a) as being unpatentable over Wee in view of Fu as applied to claims 1, 10, 18 and 25 above, and further in view of Ueda et al (US 2001/0026511 A1).

As to **claim 6**, Wee in view of Fu discloses the method according to claim 1. However they do not disclose wherein defining a rule comprises defining a rule having at least one parameter logically defining a digital versatile disc (DVD) format requirement.

Ueda discloses wherein defining a rule comprises defining a rule having at least one parameter logically defining a digital versatile disc (DVD) format requirement (see [208]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have added defining a DVD format taught by Ueda to the apparatus of Wee in view of Fu to provide a method capable of preventing occurrence of an error end of a Read Modify Write process in a computer environment (see [53]).

As to **claim 12** this is an apparatus claim corresponding to the method claim 6. Therefore, claims 12 is analyzed and rejected as previously discussed with respect to claim 6.

As to **claim 20**, this is a computer readable medium claim corresponding to the method claim 6. Therefore, claim 20 is analyzed and rejected as previously discussed with respect to claim 6.

Wee discloses an encoding software and a computer (133) (see column 11, lines 2 – 6, column 12, lines 1 - 13 and column 17, lines 7 – 21).

5. Claims 17 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wee in view of Fu as applied to claims 1, 10, 18 and 25 above, and further in view of Nakamura et al (US 2002/0169742 A1).

As to **claim 17**, Wee in view of Fu discloses the system according to claim 10. However they do not disclose wherein the application is adapted to determine whether the file comprises a group of pictures disposed between a sequence start code and a sequence end code of the file.

Nakamura discloses wherein the application is adapted to determine whether the file comprises a group of pictures disposed between a sequence start code and a sequence end code of the file (see [103]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the GOP between the sequence start code and the sequence end code as taught by Nakamura to the apparatus of Wee in view of Fu to protect a software by a proper creator (see [008]).

As to **claim 24**, this is a computer readable medium claim corresponding to the system claim 17. Therefore, claim 21 is analyzed and rejected as previously discussed with respect to claim 17.

Wee discloses an encoding software and a computer (133) (see column 11, lines 2 – 6, column 12, lines 1 - 13 and column 17, lines 7 – 21).

(10) Response to Argument

1. Whether claims 1, 4 -5, 7 – 11, 14 – 16, 18 - 19, 21 - 23 and 25 - 26 are obvious over the combined teachings of Wee et al (US 6,973,130 B1) in view of Fu et al (US 2004/0136352 A1).

In re pages 5 – 7, appellants argue that the combination of Wee in view of Fu fails to suggest the combination of claims 1, 10, 18 and 25: defining a rule comprising at least one parameter that logically defines a format requirement for determining whether the MPEG-formatted file is decodable on a first type of MPEG-capable decoder but not decodable on a second type of MPEG-capable decoder;

reading a portion of the file

comparing the portion of the file with the rule; and

determining whether the file violates the rule.

In response, Wee discloses reading a portion of the file (see column 22, lines 18 – 37. In the above cited column, Wee clearly discloses examining the sequence header to determine MPEG format).

Wee clearly disclose comparing the portion of the file with the rule (see column 22, lines 18 – 37. In the above cited column, Wee clearly discloses recognizing twenty-

three consecutive zeros followed by a "one" in the beginning of the sequence to recognize an MPEG format).

Wee discloses determining whether the file violates the rule (see column 22, lines 18 – 37. It is clear from the cited column that if the beginning of the sequence header does not have twenty three consecutive zeros followed by a "one" it is not in a MPEG format.)

Wee discloses a rule comprising at least one parameter that logically defines a format requirement (see column 22, lines 18 - 37. From the above cited column, it is clear that the MPEG format requirement is twenty-three zeros followed by a "one".)

Wee does not disclose whether the MPEG formatted file is decodable on a first type of MPEG capable decoder but not decodable on a second type of MPEG-capable decoder.

Fu on the other hand discloses whether the MPEG formatted file is decodable on a first type of MPEG capable decoder but not decodable on a second type of MPEG-capable decoder (see [25] and [26]). In the above cited paragraph, Fu discloses that the header of a MPEG file may include information pertaining to the encoding process required by the MPEG decoder to decompress (see [26]). Paragraph 25 on the other hand discloses that there is a first decoder that is capable of decoding by a first decoder in the set-top box. The last four lines of paragraph 25 discloses that the type of encoding may also determine whether another system will be able to decode and interpret a received MPEG data stream. From the last four lines of paragraph 25, it is

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clear that there is another decoder that may or may not be able to decode the MPEG data stream based on the type of encoding.)

As to **claims 2, 3, 6, 12, 13, 17, 20 and 24**, there are no further arguments regarding these claims.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Oluwaseun Adegeye

Examiner Art Unit 2621

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06/04/2008

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